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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-080]

Cast Iron Soil Pipe from the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable February 15, 2018.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey at (202) 482-2312, AD/CVD Operations, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On January 26, 2018, the Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of cast iron soil pipe (soil pipe) from the People's Republic of China (China), filed in proper form, on behalf of the Cast Iron Soil Pipe Institute (the petitioner).¹ The petitioner is a trade association, whose members are all domestic producers of soil pipe.² The CVD petition³ was accompanied by an antidumping duty (AD) petition for soil pipe from China.⁴

¹ See Letter to the Secretary of Commerce from the petitioner re: Cast Iron Pipe from the People's Republic of China – Petition for the Imposition of Antidumping and Countervailing Duties, dated January 26, 2018 (Petition).

² See Volume I of the Petition, at 2. The individual members of the Cast Iron Soil Pipe Institute are AB&I Foundry, Charlotte Pipe & Foundry, and Tyler Pipe.

³ See Volume III of the Petition.

⁴ See Volume II of the Petition.

On January 30 and 31, 2018, Commerce requested additional information and clarification of certain areas of the Petition.⁵ The petitioner filed responses to these requests on February 1 and 2, 2018.⁶

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, with respect to imports of soil pipe from China, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(E) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the CVD investigation that the petitioner is requesting.⁷

Period of Investigation

Because the Petition was filed on January 26, 2018, pursuant to 19 CFR 351.204(b)(2), the period of investigation is January 1, 2017, through December 31, 2017.⁸

⁵ See Letters from Commerce, “Petition for the Imposition of Countervailing Duties on Imports of Cast Iron Soil Pipe from the People’s Republic of China: Supplemental Questions,” dated January 30, 2018, and “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Cast Iron Soil Pipe from the People’s Republic of China: General Issues Supplemental Questions,” dated January 31, 2018.

⁶ See Letters from the petitioner “Cast Iron Soil Pipe from the People’s Republic of China: Response to Supplemental Questions – General Issues,” dated February 2, 2018 (General Issues Supplement), and “Cast Iron Pipe from the People’s Republic of China – Petitioner’s Response to Supplemental Questionnaire Concerning Volume III,” February 1, 2018 (CVD Supplement).

⁷ See “Determination of Industry Support for the Petition” section, below.

⁸ See 19 CFR 351.204(b)(2).

Scope of the Investigation

The product covered by this investigation is soil pipe from China. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in the Appendix to this notice.

Comments on the Scope of the Investigation

On February 2, 2018, in response to a question from Commerce, the petitioner filed a revision to the scope language.⁹

As discussed in the preamble to Commerce’s regulations,¹⁰ we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope). Commerce will consider all comments received from interested parties and, if necessary, will consult with the interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,¹¹ all such factual information should be limited to public information. In order to facilitate preparation of its questionnaire, Commerce requests all interested parties to submit such comments by 5:00 PM Eastern Time (ET) on Wednesday, March 7, 2018, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 PM ET on Monday, March 19, 2018, which is the next business day after the tenth calendar day from the deadline for initial comments.¹² All such comments must be filed on the record of the concurrent AD and CVD investigations.

Commerce requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds

⁹ *See* General Issues Supplement at Exhibit 1.

¹⁰ *See Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

¹¹ *See* 19 CFR 351.102(b)(21).

¹² *See* 19 CFR 351.303(b).

that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. As stated above, all such comments must be filed on the record of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement & Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).¹³ An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement & Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, D.C. 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to section 702(b)(4)(A) of the Act, Commerce notified representatives of the GOC of the receipt of the Petition, and provided them the opportunity for consultations with respect to the CVD Petition.¹⁴ In response to Commerce's invitation, the GOC met with Commerce Officials on February 7, 2018.¹⁵ The invitation letter and memorandum to the file regarding the consultations are on file electronically *via* ACCESS.

¹³ See 19 CFR 351.303 (for general filing requirements); *see also* *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011), for details of Commerce's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx>, and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

¹⁴ See Letter to the Embassy of China from Commerce, "Countervailing Duty Petition on Cast Iron Soil Pipe from the People's Republic of China" (January 29, 2018).

¹⁵ See memorandum to the file, "Consultations with Officials from the Government of China," dated February 8, 2018.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁶ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either

¹⁶ See Section 771(10) of the Act.

agency contrary to law.¹⁷

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in a petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the Petition. Based on our analysis of the information submitted on the record, we have determined that soil pipe, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁸

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition and the General Issues Supplement with reference to the domestic like product as defined in the “Scope of the Investigation,” in the Appendix to this notice. The petitioner provided the 2017 production of the domestic like product by its members.¹⁹ The petitioner states that its members are the only known producers of soil pipe in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.²⁰

Our review of the data provided in the Petition, General Issues Supplement, and other

¹⁷ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁸ For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist: Cast Iron Soil Pipe from the People’s Republic of China (Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Cast Iron Soil Pipe from the People’s Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

¹⁹ See Volume I of the Petition at 4.

²⁰ *Id.* at 3-4 and Exhibit I-1.

information readily available to Commerce indicates that the petitioner has established industry support for the Petition.²¹ First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²² Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²³ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²⁴ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(E) of the Act, and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting that Commerce initiate.²⁵

Injury Test

Because China is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must

²¹ See Initiation Checklist at Attachment II.

²² See section 702(c)(4)(D) of the Act; *see also* Initiation Checklist at Attachment II.

²³ See Initiation Checklist at Attachment II.

²⁴ *Id.*

²⁵ *Id.*

determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁶

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share and increasing market share of subject imports; underselling and price depression; lost sales and revenues; and negative impact on financial results, including total revenue, gross profits, operating income, and net income.²⁷ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁸

Initiation of CVD Investigation

Section 702(b)(1) of the Act requires Commerce to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

²⁶ See Volume I of the Petition, at 13-14 and Exhibit I-7.

²⁷ *Id.* at 14-19 and Exhibits I-7, I-9 and I-10; see also General Issues Supplement, at 1.

²⁸ See Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Cast Iron Soil Pipe from the People's Republic of China.

The petitioner alleges that producers/exporters of soil pipe in China benefited from countervailable subsidies bestowed by the GOC. Commerce examined the Petition and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, and/or exporters of soil pipe from China receive countervailable subsidies from the GOC.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.²⁹ The 2015 law does not specify dates of application for those amendments. On August 6, 2015, Commerce published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.³⁰ The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this CVD investigation.³¹

Subsidy Allegations

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on all 32 alleged programs.³² For a full discussion of the basis for our decision to initiate on each program, *see* the CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

²⁹ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

³⁰ See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015). The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

³¹ *Id.*, at 46794-95.

³² In the CVD Supplement, the petitioner withdrew its request that we initiate a CVD investigation on several programs.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination in this investigation no later than 65 days after the date of initiation.

Respondent Selection

The petitioner named numerous companies as producers/exporters of soil pipe from China. Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of soil pipe from China during the period of investigation under the appropriate Harmonized Tariff Schedule of the United States number listed in the "Scope of the Investigation," in the Appendix.

On February 5, 2018, Commerce released CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of this CVD investigation.³³ Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at <http://enforcement.trade.gov/apo>.

Comments for this investigation must be filed electronically using ACCESS. An

³³ See Memorandum, "Cast Iron Soil Pipe from the People's Republic of China Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection," dated February 5, 2018.

electronically-filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. ET, by the date noted above. We intend to finalize our decision regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC *via* ACCESS. Because of the large number of producers/exporters identified in the Petition,³⁴ Commerce considers the service of the public version of the Petition to the foreign producers/exporters satisfied by delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of soil pipe from China are materially injuring, or threatening material injury to, a U.S. industry.³⁵ A negative ITC determination will result in the investigation being terminated;³⁶ otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce;

³⁴ See Volume I of the Petition, at Exhibit I-4.

³⁵ See section 703(a)(2) of the Act.

³⁶ See section 703(a)(1) of the Act.

and (v) evidence other than factual information described in (i) through (iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties are advised to review the regulations prior to submitting factual information in this investigation.

Extension of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 AM on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September

20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³⁷ Parties must use the certification formats provided in 19 CFR 351.303(g).^{38, 39} Commerce intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under Administrative Protective Order (APO) in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

³⁷ See section 782(b) of the Act.

³⁸ See also *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

³⁹ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

February 15, 2018

Date

Appendix

Scope of the Investigation

The merchandise covered by this investigation is cast iron soil pipe, whether finished or unfinished, regardless of industry or proprietary specifications, and regardless of wall thickness, length, diameter, surface finish, end finish, or stenciling. The scope of this investigation includes, but is not limited to, both hubless and hub and spigot cast iron soil pipe. Cast iron soil pipe is nonmalleable iron pipe of various designs and sizes. Cast iron soil pipe is generally distinguished from other types of nonmalleable cast iron pipe by the manner in which it is connected to cast iron soil pipe fittings.

Cast iron soil pipe is classified into two major types – hubless and hub and spigot. Hubless cast iron soil pipe is manufactured without a hub, generally in compliance with Cast Iron Soil Pipe Institute (CISPI) specification 301 and/or American Society for Testing and Materials (ASTM) specification A888, including any revisions to those specifications. Hub and spigot pipe has one or more hubs into which the spigot (plain end) of a fitting is inserted. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

The subject imports are currently classified in subheading 7303.00.0030 of the Harmonized Tariff Schedule of the United States (HTSUS): Cast iron soil pipe. The HTSUS subheading and specifications are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

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